

REMARKS

Claims 1, 3, 8, 9, 12, 16, 17, and 20 were acted upon in the aforesaid Office Action. Claim 8 has been withdrawn, and no new claim has been added, leaving claims 1, 3, 9, 12, 16, 17, and 20 for further consideration.

Claim 1 stands rejected under 35 U.S.C. 103(a) as unpatentable over USP 6,267,772 - Mulhauser et al. and USP 4,060,089 - Noiles. Claim 1 relates to an encapsulation device for the repair of an articular cartilage defect. The device is defined as comprising a body for disposition adjacent a bone in an area of the cartilage defect, and leg structure of a generally conical configuration.

As amended, claim 1 limits the body to comprising a peripheral circular frame portion and an integral cover portion disposed within the frame portion. The cover portion is bowed proximally from the frame portion to provide a bowed proximal end profile, such that a central portion of the cover portion extends proximally further than a peripheral portion of the cover portion. The leg structure comprises a plurality of leg members extending from a distal side of the frame portion. Each leg member is provided with a central channel extending therethrough, the channels opening on a proximal side of the frame member and closed at a distal end of the leg member.

In Mulhauser, it appears that the cover portion (12) is preferably flat, but pliable, so that the implant can be rolled into a cylinder for leading into a trocar. Upon deployment, the implant reverts back to its flat shape. It is suggested that the implant may be formed with a slight convexity or concavity (col. 3, next to last paragraph). However, there appears to be a need

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to have a semi-rigid frame to prevent the mesh from collapsing into the defect undergoing repair. Thus, the shape of the mesh of Mulhauser appears to be changeable and not committed to any particular configuration except preferably flat, at least for starters.

Noiles shows legs (17) similar to Applicants', but with channels extending completely therethrough. As amended, claim 1 is limited to each leg being provided with a central channel therein, the channel being open on a proximal side of the frame members and being closed at the distal end of the channel. In Noiles, the channels extend entirely through the legs to permit metal pins (27) to pass therethrough and engage and pierce tissue (col. 3, Lines 39-48).

It therefore appears that claim 1, as extensively amended, stands outside the teachings of Mulhauser and Noiles.

Claims 3, 9, 12, 16 and 17 depend from claim 1 and would appear to be allowable by way of dependency.

Claim 20 is a method claim, and has been amended similarly to claim 1.

Accordingly, allowance of claims 1, 3, 9, 12, 16, 17 and 20 is most respectfully requested.

In the event that any fees may be required in this matter,  
please charge the same to Deposit Account No. 16-0221.

Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott R. Foster". The signature is fluid and cursive, with the first name "Scott" and last name "Foster" clearly distinguishable.

Scott R. Foster, Esq.

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